

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

Civ. No. 20-287

\$13,500.00 IN UNITED STATES CURRENCY,

*Defendant-in-rem.*

**VERIFIED COMPLAINT FOR FORFEITURE *IN REM***

Plaintiff, United States of America, brings this complaint in accordance with Supplemental Rule G(2) of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions, and alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action to forfeit and condemn to the use and benefit of the United States of America property involved in violations of the Controlled Substances Act and 18 U.S.C. § 1952 that is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) and 18 U.S.C. § 981(a)(1)(C).

**DEFENDANT *IN REM***

2. The defendant in rem consists of the following:

i. Thirteen Thousand Five Hundred Dollars (\$13,500.00) in United States Currency (hereafter referred to as “Defendant Currency”).

3. Defendant Currency was seized by the U.S. Department of Homeland Security, U.S. Customs and Border Protection, on December 15, 2019, in the District of New Mexico.

4. Defendant Currency is now, and during the pendency of this action will be, in the jurisdiction of this Court.

#### **JURISDICTION AND VENUE**

5. The United States District Court for the District of New Mexico has subject matter jurisdiction under 28 U.S.C. §§ 1345, 1355(a) and 1356.

6. Venue for this civil forfeiture action is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395, as acts or omissions giving rise to the forfeiture took place in this district and the property is found in this district. Upon the filing of this complaint, Defendant Currency will be arrested by execution of a Warrant for Arrest *In Rem* in the District of New Mexico.

#### **FACTS**

7. On December 15, 2019, U.S. Border Patrol Agent (“BPA”) Dakota Reynolds was working the vehicle inspection lanes at the U.S. Border Patrol checkpoint located on Interstate 10 west of Las Cruces, New Mexico. At approximately 9:30 p.m., BPA Reynolds encountered a black 2014 Mercedes CLA 250 bearing California license plates as it approached the primary inspection area.

8. BPA Reynolds greeted the driver of the vehicle, and as the driver rolled down his window, BPA Reynolds immediately smelled a strong odor of marijuana emanating from the vehicle.

9. BPA Reynolds then asked the driver, identified as Lucas Da Costa Alves (“Da Costa”), about his travel plans. Da Costa replied that he was coming from Texas and heading to California.

10. Based on the marijuana odor, BPA Reynolds asked Da Costa for consent to run a canine sniff of the vehicle. Da Costa hesitated at first, but eventually consented.

11. BPA Reynolds directed Da Costa to secondary inspection, where BPAs asked Da Costa to exit the vehicle. Upon exiting the vehicle, Da Costa exclaimed that he smoked weed, and confessed that there was marijuana located in the center console of the vehicle.

12. BPA Reynolds then conducted a canine inspection of the vehicle using his government-assigned narcotics detection dog, Cobo. During the inspection, Cobo alerted positively for the odor of illegal controlled substance on two separate occasions. First, he alerted to the center console of the vehicle. In addition, Cobo alerted to a black backpack located on the passenger seat.

13. BPA Reynolds advised Da Costa of the positive canine alert, and asked again where the marijuana was in the vehicle. Da Costa reiterated that the marijuana was in the center console. At that point, BPAs escorted Da Costa into the I-10 checkpoint holding cell for further investigation.

14. BPAs then conducted a search of the vehicle and discovered a Glock .45 ACP magazine loaded with twelve (12) rounds in a shoebox in the vehicle's trunk, two black canisters containing .01 grams of marijuana in the center console, and a large amount of U.S. currency secreted in the backpack on the vehicle's front seat.

15. Inside the backpack, BPA Reynolds found \$13,500 in U.S. currency wrapped in rubber bands inside a vacuum-sealed bag that had been previously opened. The currency was separated into thirteen \$1,000 bundles and one bundle of \$500 which consisted entirely of \$20 dollar bills.

16. Based on his training and experience, BPA Reynolds considered both the manner of the currency's storage as well as its separation into distinct bundles to be consistent with the transportation of proceeds derived from unlawful drug trafficking activity.

17. BPAs then interviewed Da Costa regarding the currency, and Da Costa gave varying, inconsistent accounts of the currency's origin. Da Costa related to one BPA that he earned the money as a barber. When asked where the money came from by another BPA, Da Costa replied that he earned the money with his cousins as a mover. When asked how he earned such a large sum of money on another occasion, Da Costa stated that he "help[ed] a lot of people." Throughout the interview, Da Costa remained bellicose and confrontational with BPAs.

18. At no time during the interview was Da Costa able to produce a receipt, bank statement, photograph, reference, or documentation to substantiate any legitimate source for the currency.

19. Finally, BPAs conducted a sterile test on the currency. To accomplish this, BPAs sent the drug odor detector dog, Cobo, into a sterile environment containing only sterile containers. Cobo did not alert. BPAs then concealed the currency seized from Da Costa's backpack into the sterile environment and sent Cobo to perform another systematic canine search. Cobo alerted positively for the odor of illegal controlled substance in the container concealing the currency.

#### **FIRST CLAIM FOR RELIEF**

20. The United States incorporates by reference the allegations in paragraphs 1 through 19 as though fully set forth.

21. Title 21, United States Code, Section 881(a)(6) subjects to forfeiture "[a]ll moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable

instruments, and securities used or intended to be used to facilitate any violation of this subchapter.”

22. Defendant Currency was furnished, or intended to be furnished, in exchange for a controlled substance, or constitutes proceeds traceable to such an exchange, or was used or intended to be used to facilitate a violation of the Controlled Substances Act and is thus subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6).

**SECOND CLAIM FOR RELIEF**

23. The United States incorporates by reference the allegations in paragraphs 1 through 19 as though fully set forth.

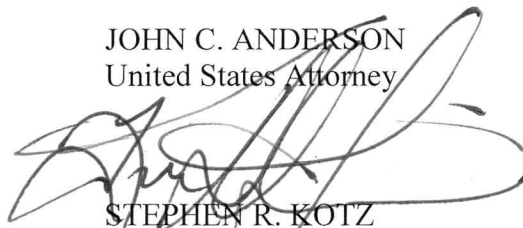
24. Title 18, United States Code, Section 1952 prohibits interstate and foreign travel or transportation with the intent to (1) distribute the proceeds of any unlawful activity; (2) commit any crime of violence to further any unlawful activity; or (3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity. Unlawful activity is defined in 18 U.S.C. § 1952(b).

25. Defendant Currency is the proceeds of a violation of 18 U.S.C. § 1952 or is the proceeds traceable to such property and, is thus subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

WHEREFORE: Plaintiff seeks arrest of Defendant Currency and forfeiture of same to Plaintiff, determination of the validity and priority of claims of the Claimants and any Unknown Claimants to the Defendant Currency, costs and expenses of seizure and of this proceeding, and other proper relief.

Respectfully submitted,

JOHN C. ANDERSON  
United States Attorney

A large, stylized handwritten signature in black ink, likely belonging to Stephen R. Kotz, is written over the typed name and partially over the address.


STEPHEN R. KOTZ  
KRISTOPHER DALE JARVIS  
Assistant U.S. Attorneys  
200 N. Church Street  
Las Cruces, NM 88001  
(575) 522-2304

**28 U.S.C. § 1746 DECLARATION**

I am a Special Agent with the Department of Homeland Security, U.S. Customs and Border Protection who has read the contents of the Complaint for Forfeiture *In Rem* to which this Declaration is attached; and the statements contained in the complaint are true to the best of my knowledge and belief.

I declare under penalty of perjury and the laws of the United States of America that this Declaration is true and correct, except as to matters stated on information and belief, and as to those matters I believe them to be true.

Dated: 03/30/20

  
\_\_\_\_\_  
Dakota Reynolds, Patrol Agent  
U.S. Border Patrol

JS 44 (Rev. 09/19)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

United States of America

**DEFENDANTS**

\$13,500.00 in United States Currency

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kristopher Dale Jarvis, Assistant United States Attorney  
200 N. Church Street, Las Cruces, NM 88001  
575-522-2304

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)
☒ 1 U.S. Government Plaintiff

☐ 3 Federal Question  
(U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)
**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

☒ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from Another District (specify)  
 ☐ 6 Multidistrict Litigation - Transfer  
 ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 21 U.S.C. § 881(a)(6) and 18 U.S.C. § 981(a)(1)(C)

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
03/27/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE